

LOS ANGELES POLICE DEPARTMENT



CHARLIE BECK
Chief of Police

ANTONIO R. VILLARAIGOSA

Mayor

P. O. Box 30158
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Telephone: (213) 978-2100
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Reference Number: 14.4

February 19, 2013

Mr. Carlton Purvis
MuckRock News, Dept MR 2763
PO Box 55819
Boston, Massachusetts 02205-5819
2763-67987963@requests.muckrock.com

Dear Mr. Purvis:

I have reviewed your request for "all Los Angeles Police Department Board of Rights transcripts from all hearings and meetings between the dates of October 1, 2008 and March 1, 2009. Please be sure to include all transcripts regarding the disposition of Christopher Jordan Dorner." Your request was made pursuant to the Freedom of Information Act (FOIA).

Section 551(1) of the FOIA states as follows: "For purposes of this subchapter --- (1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency...." Section 552(f)(1) states as follows: "For purposes of this section, the term ---(1) "agency" as defined in Section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency...." As the Los Angeles Police Department (the Department) is not an "authority of the Government of the United States," it is not an agency subject to the provisions of the FOIA. However, the Department is a "local agency" subject to the provisions of the California Public Records Act (the Act), California Government Code Section 6250 *et seq.*, which was modeled upon the FOIA. Therefore, your request is being considered as one made pursuant to the Act.

The Department is cognizant of its responsibilities under the Act. It recognizes the statutory scheme was enacted in order to maximize citizen access to the workings of government. The Act does not mandate disclosure of all documents within the government's possession. Rather, by specific exemption and reference to other statutes, the Act recognizes that there are boundaries where the public's right to access must be balanced against such weighty considerations as the right of privacy, a right of constitutional dimension under California Constitution, Article 1, Section 1. The law also exempts from disclosure records that are privileged or confidential or

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otherwise exempt under either express provisions of the Act or pursuant to applicable federal or state law, per Government Code Sections 6254(b); 6254(c); 6254(f); 6254(k); and 6255.

The Department is unable to respond to your request, as it does not reasonably describe an identifiable record as required under Section 6253(b) of the Act. Section 6255 of the Act exempts records where "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure." It would be unduly burdensome, as interpreted in the "public interest" provision in Section 6255 of the Act, for the Department to search every Board of Rights hearings to locate the occurrence dates responsive to the request.

Additionally, records of a Board of Rights hearing are contained in or are a part of the personnel files of the concerned peace officer. Peace officer personnel records are exempt from disclosure pursuant to Sections 6254(c) and (k). Section 6254(c) exempts from disclosure "personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy." Section 6254(k) exempts records which are exempt from disclosure under federal or state law, including, but not limited to provisions of the Penal Code. Penal Code Section 832.7 states that peace officer personnel records and information contained within them are privileged and confidential and cannot be disclosed except through discovery pursuant to Sections 1043 and 1045 of the Evidence Code. [See Penal Code Sections 832.5 and 832.7 and Evidence Code Sections 1043 and 1045]. California case law holds that Evidence Code Section 1043 *et seq.* is the exclusive means to obtain peace officer personnel records, and as such, they are exempt from the disclosure provisions of the Act. [See *City of Hemet v. Superior Court* (1995) 37 Cal. App. 4th 1411 and *Copley Press, Inc. v. Superior Court* (2006) 39 Cal 4th 1272]. Therefore, your request is denied.

Any correspondence regarding this matter should include a copy of this letter and be directed to the Los Angeles Police Department - Discovery Section, 201 North Los Angeles Street, Space 301, Los Angeles, California 90012. If you have any questions regarding this correspondence, please contact Management Analyst Anita Carter of the Discovery Section at (213) 978-2148.

Very truly yours,

CHARLIE BECK
Chief of Police

A handwritten signature in black ink, appearing to read "Martin Bland". The signature is fluid and cursive, with a long horizontal stroke at the end.

MARTIN BLAND, Senior Management Analyst
Officer-in-Charge, Discovery Section
Legal Affairs Division